

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JAMES EDWARD WALLACE,  
  
Plaintiff,  
  
v.  
  
ACOSTA,  
  
Defendant.

Case No. 1:21-cv-01275-ADA-EPG  
  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS  
  
(ECF No. 33)

Plaintiff James Edward Wallace proceeds *in forma pauperis* and with counsel in this case brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 17, 2022, the assigned Magistrate Judge issued findings and recommendations recommending that Plaintiff's motion for leave to file his second amended complaint be granted and that Plaintiff's claims that Doe Defendants used excessive force against him in violation of the Fourth Amendment and his claims that Doe Defendants denied him adequate medical care in violation of the Fourteenth Amendment be allowed to proceed. (ECF No. 33.) However, the Magistrate Judge recommended that all other proposed claims and Defendants be dismissed with prejudice for failure to state a claim. (*Id.*) Lastly, the Magistrate Judge recommended that the City of Lemoore's motion to dismiss the First Amended Complaint (ECF No. 15) be denied as moot. (*Id.*)

1 The findings and recommendations were served on the parties and contained notice that  
2 any objections were to be filed within fourteen (14) days of service. (*Id.* at 11.) No objections  
3 were filed and the deadline to do so has expired.

4 In accordance with 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of  
5 this case. Having carefully reviewed the entire file, the Court finds the findings and  
6 recommendations to be supported by the record and by proper analysis.

7 Accordingly, IT IS HEREBY ORDERED as follows:

- 8 1. The findings and recommendations issued on October 17, 2022 (ECF No. 33), are  
9 ADOPTED in full;
- 10 2. Plaintiff's motion for leave to file a second amended complaint (ECF No. 20) is  
11 GRANTED;
- 12 3. Plaintiff's claims from his second amended complaint that Doe Defendants used  
13 excessive force against him in violation of the Fourth Amendment and that Doe  
14 Defendants denied him adequate medical care in violation of the Fourteenth  
15 Amendment are allowed to proceed;
- 16 4. All other claims and Defendants are DISMISSED with prejudice for failure to state a  
17 claim upon which relief may be granted;
- 18 5. The Clerk of Court is directed to file the second amended complaint on the docket  
19 (ECF No. 20-2); and
- 20 6. The City of Lemoore's motion to dismiss (ECF No. 15) be DENIED as moot.

21  
22  
23 IT IS SO ORDERED.

24 Dated: December 5, 2022

25  
26  
27  
28  
  
UNITED STATES DISTRICT JUDGE